

**U.S. Bankruptcy Court
California Northern Bankruptcy Court (San Francisco)
Bankruptcy Petition #: 19-30088**

Assigned to: Judge Dennis Montali
Chapter 11
Voluntary
Asset

Date filed: 01/29/2019
Plan confirmed: 06/20/2020
341 meeting: 04/29/2019
Deadline for filing claims: 10/21/2019
Deadline for filing claims (govt.): 10/21/2019

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Filing Date	#		Docket Text
03/27/2023		<u>13646</u>	Order Denying Motion for Reconsideration By Spiro Jannings (Related Doc # <u>13455</u>), Denying Motion for Relief From Stay (Related Doc # <u>13455</u>) (lp) (Entered: 03/27/2023)
04/10/2023		<u>13662</u>	Notice of Appeal and Election , Fee Amount \$ 298.00. (RE: related document(s) <u>13646</u> Order on Motion for Miscellaneous Relief, Order on Motion for Relief From Stay). Appellant Designation due by 4/26/2023. Transmission of Record to District Court due by 5/10/2023. Statement of Issues due by 4/26/2023. Filed by Creditor Spiro Jannings (myt) (Entered: 04/10/2023)
04/10/2023		<u>13663</u>	Courts Certificate of Mailing. Number of notices mailed: 3 (RE: related document(s) <u>13662</u> Notice of Appeal and Statement of Election). (myt) (Entered: 04/10/2023)



Signed and Filed: March 27, 2023

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
) Chapter 11
- and -) Jointly Administered
PACIFIC GAS AND ELECTRIC COMPANY,)
Reorganized Debtors.)
) Hearing Held
) Date: March 7, 2023
 ☐ Affects PG&E Corporation) Time: 10:00 a.m.
 ☐ Affects Pacific Gas and) Via video/teleconference
 Electric Company)
 ☒ Affects both Debtors)
)
 * All papers shall be filed in)
 the Lead Case, No. 19-30088 (DM).)

ORDER DENYING MOTION FOR RECONSIDERATION
BY SPIRO JANNINGS

On January 13, 2022, the court signed an Order Disallowing and Expunging Claim No. 58462, Filed October 17, 2019, of Spiro Jannings ("Order Disallowing Claim") (Dkt. 11829). On January 26, 2022, Creditor Spiro Jannings ("Jannings") filed the Motion for Relief From Order ("First Motion") (Dkt. 11871) seeking to vacate the Order Disallowing Claim pursuant to Fed. R. Civ. P.

60(b) or 59(e) ("Rule"), as applied to bankruptcy matters by Fed. R. Bankr. P. 9023 and 9024. On March 14, 2022, the court entered an Order Denying the Motion ("Order Denying Reconsideration") (Dkt. 12009).

Ten months later, on January 13, 2023, Jannings filed the Claimant's Omnibus Motion for Relief from Final Order, Motion for Relief from Stay, and Response to Reorganized Debtor's Objection to Claim No. 58462, Filed October 17, 2019 ("Renewed Motion") (Dkt. 13455). The Renewed Motion seeks to vacate the Order Disallowing Claim, nullify the Order Denying Reconsideration, and obtain relief from the discharge injunction to allow Jannings' underlying disallowed claim against the Debtors continue apace in state court pursuant to Rule 60(b)(1) or (b)(3). For the reasons set forth below, the court will DENY the Renewed Motion.

A motion for reconsideration of an allowed or disallowed claim may be filed pursuant to Rule 60 if the motion is "made within a reasonable time . . . no more than a year after the entry of the judgment or order or the date of the proceeding." Rule 60(c).

Whether a reconsideration motion has been filed in a reasonable amount of time "requires a case-by-case analysis. Such determination takes into consideration 'the interest in finality, the reason for delay, the practical ability of the litigant to learn earlier of the grounds relied upon, and prejudice to other parties.'" *In re Williams*, 287 B.R. 787, 793 (B.A.P. 9th Cir. 2002) (quoting *Ashford v. Steuart*, 657 F.2d 1053, 1055 (9th Cir. 1981)).

1 Here, Jannings waited exactly one year from the entry of
2 the court's Order Disallowing Claim to file the Renewed Motion.
3 Jannings explains that he sought new counsel after the court's
4 entry of the Order Denying Consideration that was based in part
5 of the inactions of his then-counsel, Scott Furstman and Michael
6 St. James. However, Jannings was unable to find new counsel
7 easily, and then the counsel he did hire, Mark Bostick, failed
8 to timely file a motion for reconsideration.

9 Jannings presents two different timelines of his travails.
10 In the first timeline, found in the Renewed Motion, Jannings
11 immediately sought new counsel in March 2022, "directly after
12 this Court's 3/14/22 Decision," and eventually hired attorney
13 Mark Bostick. Then, "Mr. Bostick failed to perform as agreed
14 and fecklessly dragged Jannings along; representation ended
15 01/12/23," leaving Jannings with less than one day to file the
16 Renewed Motion and accompanying Declaration.

17 In the second timeline, found in Jannings' Declaration in
18 Support of Reply (Dkt. 13562), Jannings was not even aware of
19 the Court's Order Denying Reconsideration until a month after
20 entry of the order, on April 14, 2022. After being advised to
21 seek new counsel, Jannings spent a few weeks contacting firms
22 but was repeatedly turned away. He chose to hire Mr. Bostick
23 within weeks, and officially retained Mr. Bostick as counsel in
24 July 2022 after due diligence was completed. Then around late
25 November 2022, Jannings "became suspicious Mr. Bostick was not
26 going to complete [the] agreement to file motions for vacating
27 the January 13, 2022 order, and chose to proceed *pro se*."
28

1 The story of each timeline is the same—Jannings’ delay in
2 filing the Renewed Motion is reasonable because the counsel he
3 hired as soon as he was able gave him the run-around until it
4 was almost too late. However, in a matter in which the court
5 must analyze timing, a discrepancy of a month or months on both
6 the front and back-end on Jannings’ timelines is notable, along
7 with the fact that Mr. St. James was counsel of record for
8 Jannings until January 12, 2023. The court simply does not find
9 Jannings shifting narrative to be credible. With such
10 uncertainty surrounding the timeline, the court cannot conclude
11 that the basis for the delay is reasonable.

12 As for the other factors for determining whether a delay in
13 filing a motion for reconsideration is reasonable, Reorganized
14 Debtors have been able to rely on the court’s decision for more
15 than 10 months, and while the court maintains that the prejudice
16 to Reorganized Debtors in simply continuing state court
17 litigation is minimal, there is an overriding interest in
18 finality that prevails. The court does not weigh whether
19 Jannings could have learned of the grounds for the Renewed
20 Motion earlier, as his argument is that he learned of the need
21 to file the Renewed Motion quickly, but the delay is not
22 attributable to him.

23 Much of the Renewed Motion is spent on the merits of
24 Jannings’ underlying claim, and an argument that Reorganized
25 Debtors committed fraud under Rule 60(b)(3) by presenting an
26 incomplete narrative of Jannings’ underlying claim, which he
27 hopes to challenge via an amended complaint in state court. The
28 fraud or misrepresentation described in Rule 60(b)(3) is not

1 about the court, but about the movant who must show "an order
2 was obtained through fraud, misrepresentation, or other
3 misconduct that prevented the losing party from fully and fairly
4 representing its defense. Also, the fraud must not have been
5 discoverable with the exercise of due diligence." *United Student*
6 *Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 213 (B.A.P.
7 9th Cir. 2006) (citations omitted). As the court has discussed
8 at length, the only factor that prevented Jannings' opposition
9 to Reorganized Debtors' request to disallow Jannings' proof of
10 claim was Jannings' (through his former counsel's) own failure
11 to respond to the request, despite a three-month period to do
12 so. The court finds no basis to reconsider its prior orders
13 under Rule 60(b)(3).

14 Accordingly, the Renewed Motion is DENIED.

15 **END OF ORDER**
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Claimant *Pro Se*

FILED
APR 10 2023
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

San Francisco Division

In re

PG&E CORPORATION

- and -

PACIFIC GAS & ELECTRIC
COMPANY

Reorganized Debtors

Case No. 19-30088
(jointly administered)

Chapter 11

NOTICE OF APPEAL AND ELECTION

Part 1: Identify the appellant

1. Name(s) of appellant(s): SPIRO JANNINGS
2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal: Creditor

Part 2: Identify the subject of this appeal

3. Describe the judgment, order, or decree appealed from:

ORDER DENYING MOTION FOR RECONSIDERATION (Dkt #13646)

4. State the date on which the judgment, order, or decree was entered: March 27, 2023

Part 3: Identify the other parties to the appeal:

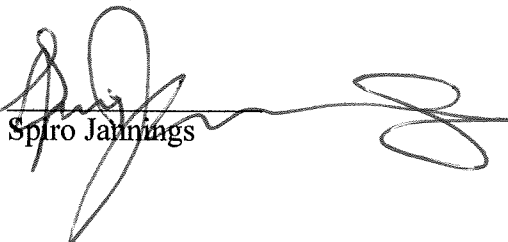
List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

Party	Attorney
1. Spiro Jannings	Spiro Jannings 1304 Shortridge Ave., Unit C San Jose, CA 95116 408-292-0646 Spiro@redlinerracingcams.com Appellant <i>in pro se</i>
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Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

Pursuant to 28 U.S.C. § 158(c)(1), Appellant elects to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Dated: April 10, 2023


Spiro Jannings

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

In Re: Bankruptcy Case No. 19-30088 (DM) (Lead Case)

PG&E Corporation Chapter 11

and (Jointly Administered)

Pacific Gas and Electric
Company,

COURT CERTIFICATE OF MAILING

I, the undersigned, a regularly appointed clerk of the United States Bankruptcy Court for the Northern District of California, served a copy of the foregoing document(s):

- Notice of Appeal and Election- by Creditor Spiro Jannings- Dkt. #13662
- Order Denying Motion for Reconsideration Dated 03/27/2023-Dkt. #13646

That I, in the performance of my duties as such Clerk, served a copy of the foregoing document(s) by depositing in the regular United States mail at San Francisco, California on the date shown below, in a sealed envelope bearing the lawful frank of the United States Bankruptcy Court addressed as listed below:

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for **PG& E Corporation and
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Creditor/Appellant

Dated: April 10, 2023

/s/ Monica Tartaglia
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